

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

United States of America, :
 :
 Plaintiff, :
 :
 v. : Case No. 2:03-cr-0052(1)
 :
 Gary Lee Kennedy, II, : JUDGE SARGUS
 :
 Defendant. :

DETENTION ORDER

The above defendant appeared before the Court for an initial appearance and a detention hearing on July 7, 2006. He was charged with three separate violations of his supervised release, relating to drug usage, failure to follow through with drug counseling, and failure to keep appointments with his probation officer. He executed a waiver of the preliminary supervised release revocation hearing, allowing the Court to conclude that probable cause exists to believe that the violations occurred. Under these circumstances, the defendant has the burden of demonstrating by clear and convincing evidence that he is neither a risk of flight nor a danger to the community.

Testimony of Probation Officer Brian Hunt indicated that defendant may no longer reside in the halfway house and that his supervised release was previously revoked for similar behavior. Additionally, the defendant has not been steadily employed since his most recent release from confinement. Under these circumstances, the Court concluded that he had not met his burden of showing that there were currently options available to the Court in lieu of detention which would be adequate to address the issues with which the Court is concerned. However, the Court also concluded that a long-term drug treatment program, beginning

with in-patient treatment, might well be both beneficial to the defendant and be an adequate condition of release. Consequently, although the Court detained the defendant without bond pending his final supervised release revocation hearing, the Court also indicated the willingness to consider his release to an appropriate in-patient treatment program if such a program becomes available for him.

The defendant was advised of his right to seek review of this Detention Order by a United States District Judge pursuant to 18 U.S.C. §3145(b).

/s/ Terence P. Kemp
United States Magistrate Judge